

ENTERED

November 07, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONJONATHAN WESLEY SMITH,
Plaintiff,

VS.

UNITED STATES DEPARTMENT OF
VETERAN AFFAIRS, *et al.*,
Defendants.§
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CIVIL ACTION NO. 4:22-CV-00407

ORDER

Pending before the Court is a Motion to Dismiss filed by the United States (Dkt. 55). This motion is **GRANTED IN PART** and **DENIED IN PART**. Here, Plaintiff Jonathan Smith (“Smith”) brings claims against the United States under the Federal Tort Claims Act (“FTCA”) for intentional torts allegedly committed by Veterans Affairs officers. (Dkt. 31 at p. 6).

Both parties acknowledge that Smith’s claims under the FTCA may not be brought against the United States Department of Veteran Affairs. (Dkt. 61 at p. 3). The parties are also in agreement that Smith failed to exhaust his administrative remedies for any conduct that occurred before December 5th, 2020. (*Id.*). Finally, Smith capitulates that he cannot sue for disorderly conduct, for the officers stating that Smith was suicidal, or for the officers’ improper training, discipline, or using improper techniques. (*Id.*) Accordingly, the United States’s motion is **GRANTED** as to these claims.

The Court finds that Smith has sufficiently plead a claim for assault and a claim for false imprisonment under the FTCA. As such, the United States's motion to dismiss is **DENIED** as to the remaining claims.

SIGNED at Houston, Texas on November 7, 2024.



GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE